

AMENDMENT UNDER 37 C.F.R. 1.111
U.S. Appl. No. 09/777,681

REMARKS

As an initial matter, the undersigned gratefully acknowledges the courtesies extended by the Examiner in the interview of August 2, 2005. Applicant concurs that the Summary of Interview set forth by the Examiner on August 2, 2005 accurately reflects that discussion.

This Amendment is filed in reply to the Office Action dated April 14, 2005 and further to the interview of August 2, 2005. This Amendment is believed to address each point of rejection raised in the Office Action. Therefore, favorable reconsideration on the merits is respectfully requested.

Claims 1-14 and 20-22 remain pending in the application and remain rejected over the art previously of record. In particular, claims 1-5, 8, 10, 11 and 20-22 have been rejected under 35 U.S.C. § 103 as being unpatentable over Lazarev in view of Wilder. Claims 6-7, 9 and 12-14 have been rejected under 35 U.S.C. § 103 as being unpatentable over Lazarev in view of Wilder and further in view of Talmi. Applicant respectfully submits the following arguments in traversal of the prior art rejections.

The Examiner maintains the prior rationale for rejecting the claims and also reiterates some points of rebuttal. Applicant responds as follows.

Independent claim 1 describes an imaging device having image forming and non-image forming areas. It had been previously argued that in Lazarev, all areas of the pick up device comprise imaging areas since it could not be determined *a priori*, which areas comprised non-image areas. The Examiner contends that the disclosure in Lazarev of "[l]enses 70 and 78 may be variable focus or zoom type lenses to accommodate endoscopes having field stops of various sizes," (Col. 6, lines 63-65) implies that fixed field stops can be used. Based on this possibility, the Examiner contends that non-imaging areas in Lazarev would be *a priori* known. Applicant submits that the

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concept of a non-variable focus lens in Lazarev appears to contradict the express disclosure of col. 6, lines 37-39, which describes focusing of a lens 70 (for example). Therefore, at least the focus is always variable, thereby undermining the Examiner's position that the field stops are fixed, and the non-imaging region is *a priori* known.

Moreover, Applicant submits that the characteristics of the lenses themselves would not necessarily dictate whether the non-imaging area is *a priori* known or not. The spread (or lack thereof) of illuminating light may also determine how much of an image will appear or not appear in the circular regions A and B and the extent of darkness of the alleged non-imaging region C in Lazarev. Therefore, for this reason also, the Examiner's reliance on inherent disclosure is incorrect.

Additionally, the Examiner has reiterated the arguments regarding user-input control signals in Wilder, to rebut prior submitted arguments that the image signals are not divided into image and non-image areas for purpose of processing control. However, the Examiner has not responded to the argument that the control signals may relate to matters such as gain, which are not related to the positional extent of a pixel reading. In other words, the discussion of the user-input control can still necessitate reading of an entire image (both imaging and non-imaging areas) and still rely on other types of information being supplied by the user. The reference of the control being provided row-by-row does not negate the possibility that the controls relate to gain, for example. In this situation, the possibility remains that all parts of the image pick up comprise image forming areas, rather than both image and non-image areas as claimed. The assumptions made by the Examiner have not been sufficiently justified in view of Applicant's arguments that the disclosures of the reference may relate to characteristics unrelated to the claim features. The Examiner cannot rely on speculation and probabilities to maintain the rejection.

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Therefore, claims 1-5, 8, 10-11 and 20-22 are patentable for at least these reasons. Claims 6-7, 9 and 12-14 are patentable as Talmi does not make up for the deficiencies of the primary references of Lazarev and Wilder. Claims 6 and 7, as amended, describe a single imaging region, where there is an off center position for the imaging region. Lazarev shows two imaging regions and thus does not meet the recitations of amended claims 6-7.

Applicant adds claims 23-26 to describe features of the invention more particularly. The cited references do not teach or suggest the features of the fluorescence imaging region of the added claims.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

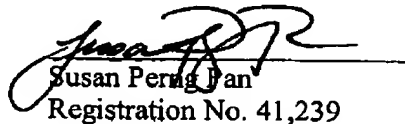
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